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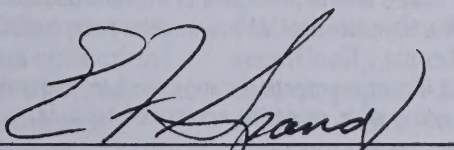
UTILITY CORRIDOR

Resource Management Plan/ Environmental Impact Statement

RECORD OF DECISION

prepared by
United States Department of the Interior
Bureau of Land Management
Arctic District Office

January 11, 1991



Edward F. Spang
State Director, Alaska

The BLM Mission

The Bureau of Land Management is responsible for the stewardship of our Public Lands. It is committed to manage, protect and improve these lands in a manner to serve the needs of the American people for all times.

Management is based on the principles of multiple use and sustained yield of our nation's resources within a framework of environmental responsibility and scientific technology.

These resources include recreation, range, timber, minerals, watershed, fish and wildlife, wilderness, air, and scenic, scientific and cultural values.

BLM-AK-PT91-009-1610-060

Introduction

This document is the Bureau of Land Management's (BLM) Record of Decision prepared for the Utility Corridor Resource Management Plan/Environmental Impact Statement (RMP/EIS). The Utility Corridor RMP is a long-term comprehensive land use plan developed to direct the BLM's management of a portion of the lands and minerals it administers in northern Alaska. The lands are shown on map 1.1, of the Proposed RMP (reproduced in this document for your convenience) and amount to approximately 6.1 million acres of BLM-administered surface, of which 5.8 million acres is BLM-administered mineral estate. The Utility Corridor RMP supersedes all previous land use planning decisions for this area, many of which are contained in a Management Framework Plan completed in 1979.

The Utility Corridor, established by Public Land Order (PLO) 5150, as amended, on December 30, 1971, is an essential component of the national domestic oil and gas transportation system. It provides a route to transport a significant portion of the nation's petroleum; the present and future importance of access to these resources cannot be overstated. In recognition of this fact, the Proposed RMP provides that the primary management direction and use of BLM-administered lands in the Utility Corridor is for energy transportation. Therefore, both the "Inner" and "Outer" Corridor, as shown on map 1.1 of the Proposed RMP, are designated as a Federal Land Policy and Management Act of 1976 (FLPMA) section 503 right-of-way corridor under 43 C.F.R. 2806.2.

The signing of this Record of Decision completes the initial phases of our land use planning process. However, the signing of this Record of Decision does not represent the end of the planning process. Planning is an on-going process of data collection, analysis and evaluation related to the prescribed uses of public lands that continues during plan implementation, and may eventually lead to amendment or revision of the plan.

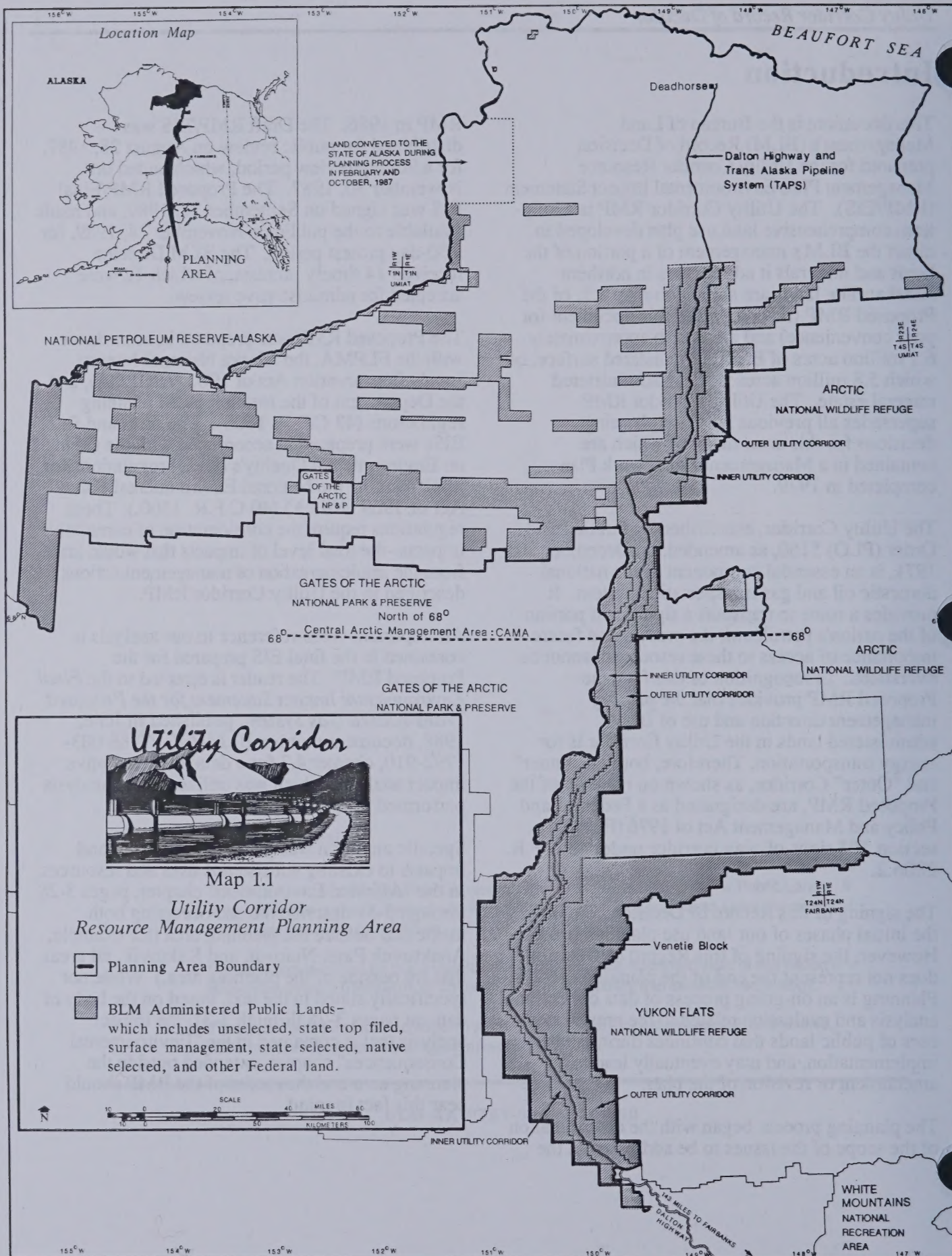
The planning process began with the determination of the scope of the issues to be addressed in the

RMP in 1986. The Draft RMP/EIS was distributed for public review on August 28, 1987, for a 90-day review period, which ended on November 30, 1987. The Proposed RMP/Final EIS was signed on September 27, 1989, and made available to the public on November 24, 1989, for a 30-day protest period. The BLM Director received 14 timely protests, of which 12 were accepted for administrative review.

The Proposed RMP was prepared in accordance with the FLPMA, the Alaska National Interest Lands Conservation Act of 1980 (ANILCA), and the Department of the Interior, BLM planning regulations (43 C.F.R. 1600). The draft and final EISs were prepared in accordance with the Council on Environmental Quality's (CEQ) regulations for implementing the National Environmental Policy Act of 1969 (NEPA) (40 C.F.R. 1500.) These regulations require the consideration of cumulative impacts--the total level of impacts that would arise from the implementation of management actions described in the Utility Corridor RMP.

An important cross-reference to our analysis is contained in the final EIS prepared for the Proposed RMP. The reader is directed to the *Final Environmental Impact Statement for the Proposed Trans-Alaska Gas System*, published in June, 1988, document number BLM-AK-PT-88-003-1792-910, chapter 4.7 for a detailed cumulative impact analysis, which was utilized in the analysis performed for the Proposed RMP.

Specific attention was given to analysis of and impacts to existing subsistence uses and resources. In the "Affected Environment" chapter, pages 3-28 through 3-31 describe the use occurring both inside and outside the planning area (for example, Anaktuvuk Pass, Nuiqsut, and Kaktovik, all areas that are outside of the planning area.) While not specifically stated in the text, based on the body of data on pages 3-28 through 3-31, the impact analysis that is contained in the "Environmental Consequences" chapter, extended outside the planning area and the reader of the RMP should bear this fact in mind.



Decision

The decision is hereby made to approve the Proposed Plan, as presented in Chapter 2 and Appendix N of the Proposed Utility Corridor RMP (September, 1989), with the exception of the State selection element. The Proposed Plan includes the wilderness recommendation identified in the *ANILCA Section 1001 Report Findings and Recommendations*.

During the 30-day protest period on the Utility Corridor RMP, 14 protests were filed. Ten of these protests objected to the amount of land proposed by the RMP to be made available for selection by the State of Alaska to, in part, settle the debt owed to the State under the terms of the Alaska Statehood Act of 1958. One protest, filed by the North Slope Borough, objected that the Proposed RMP excessively promoted recreational activities and was not conducive to maintenance of the Corridor as a transportation corridor. In response to this protest, the BLM Director found that the BLM Alaska State Director has balanced appropriately the many diverse resources and competing interests in the planning area. No change to the Proposed RMP was made as a result of the North Slope Borough protest. Two of the protests (Doyon, Limited and Mr. John Alfonsi) were dismissed by the BLM Director since the protestors did not meet the qualification requirements of 43 C.F.R. 1610.5-2.

The changes to State Selection decisions in the Proposed RMP/Final EIS (September, 1989) are:

(a) The Prospect unit, as identified on map 2.1 in the Proposed RMP, would not be made available for State Selection. However, as required by section 201(4)(b) of the ANILCA, the need for access to the Ambler Mining District is hereby recognized and will be provided upon application by the State of Alaska, and that Subsistence hearings under section 810 of the ANILCA may be required during the processing of the application. Additionally, the need for access to other State-owned lands to the west of the Prospect unit, is recognized and the BLM Alaska State Director will entertain an application for a right-of-way for access to these lands. As above, Subsistence hearings may be required during the processing of this application.

(b) A portion of the Coldfoot unit, as identified in the RMP as the "Coldfoot Development Node" (see map 2.4, Proposed RMP, page 2-17, reproduced here for your convenience) would be made available for State Selection. The remainder of the Coldfoot unit would not be made available for State selection. Should access be required to State-owned lands east of the Coldfoot development node, the BLM Alaska State Director will entertain an application for a right-of-way for access to these lands. Subsistence hearings under section 810 of the ANILCA may be required during the processing of this application.

The Proposed RMP recognizes the need for certain acreages within T. 28 N., R. 12 W., Secs. 15 and 16, Fairbanks Meridian, along the Dalton Highway and above the Slate Creek floodplain for use by federal agencies to facilitate their management responsibilities within the area (e.g., administrative sites, campgrounds and related facilities). This ROD authorizes, pending further site analysis and cooperative planning, up to 100 acres for these purposes in the node.

As proposed in the RMP, lands would be made available for State selection in the Sagavanirktok and "Gas Arctic" units and south of Yukon River. We conclude that subsistence uses in these units will not be significantly restricted and, therefore, hearings under section 810 of the ANILCA are not required.

Finally, one protest filed by American Rivers, Inc. concerned the identification and protection of potential wild and scenic rivers. While no change to the Proposed RMP was made as a result of this protest, a clarification of the BLM's legal responsibilities under the Wild and Scenic Rivers Act of 1968 (WSRA) is given below.

The BLM Director, after a careful review and consideration of Sections 101(d) and 1326 (b) of the ANILCA, and the complexity and uncertainty of management responsibilities associated with the questions of navigability and State and Native land selections, has concluded that, pending further congressional action, no further wild and scenic river studies will be conducted by BLM in Alaska at this time.

However, it is important to note that Section 2 of the WSRA provides the opportunity for States to initiate statutory protection of rivers, and to petition the Secretary of the Interior to designate rivers into the National Wild and Scenic Rivers System. If the State of Alaska chooses to pursue such designation for any rivers located within the Utility Corridor planning area the BLM is committed to assist them with the planning, evaluation and designation processes.

The special values associated with rivers identified by this plan will be taken into account during BLM's ongoing management pursuant to the provisions of FLPMA.

None of these changes require additional public review and comment. This Record of Decision constitutes the final Bureau action on approving the Proposed Utility Corridor RMP/Final EIS. Any person adversely affected by a decision of a BLM officer to implement some portion of an RMP may appeal such action to the Interior Board of Land Appeals, pursuant to 43 C.F.R. 4.400, at the time the action is proposed for implementation.

Wilderness Study Areas

As mandated by Congress in Sections 1001 and 1004 of the ANILCA, BLM conducted an interdisciplinary study and made recommendations on the wilderness values of the Central Arctic Management Area. The resulting document entitled

the *ANILCA Section 1001 Report Findings and Recommendations* found that the 41,000 acre upper Nigu River area was suitable for inclusion in the National Wilderness Preservation System (see map 2.8 on page 2-31 of the Proposed RMP). This recommendation was incorporated by reference into the Proposed Plan. This 41,000-acre tract will be managed to preserve its wilderness values up and to such time that Congress acts on BLM's recommendations. Should Congress designate this area as wilderness, BLM will continue to manage it as such. The balance of the CAMA lands, determined to be non-suitable for inclusion, will be managed according to the management prescriptions in the Proposed Plan.

Special Management Areas

The Utility Corridor RMP establishes five recreation management areas (Dalton Highway, Dalton Corridor, Oolamnagavik-Colville, the Central Arctic Management Area, and Nigu Wilderness and Iteriak ACEC). Details concerning these areas are found on pages 2-26 and 2-27 of the Proposed RMP. (See map 2.7 in the Proposed RMP.)

The Proposed RMP also establishes 13 Areas of Critical Environmental Concern (ACEC) as noted on the table below. One ACEC, Toolik Lake, is also designated as a Research Natural Area, in order to protect on-going and future research activities. (See map 2.10 in the Proposed RMP for locations of all ACECs.)

Areas of Critical Environmental Concern

ACEC Name	Size in Acres	Resources
1. Galbraith Lake	56,000	Cultural, rare or sensitive plants, scenic values, lambing areas
2. Ivishak River	3,800	Fishery, cultural
3. Jim River	200,000	Fishery, recreation, cultural
4. Kanuti Hot Springs	40	Hot Spring
5. Nigu-Iteriak	64,000	Geology, cultural
6. Nugget Creek	3,300	Lambing areas, mineral lick
7. Poss Mountain	8,000	Lambing areas, mineral lick
8. Sagwon Bluffs	42,200	Peregrine Falcons
9. Slope Mountain	5,100	Lambing areas, mineral lick, cultural
10. Snowden Mountain	28,000	Lambing areas, mineral lick
11. Sukapak Mountain	3,500	Scenic, geology
12. Toolik Lake RNA	82,800	Research activities, cultural
13. West Fork Atigun River	8,500	Lambing areas, mineral lick



DEVELOPMENT/NODE
COLDFOOT

Map 24

It should be noted that in the ACEC-specific prescriptions concerning altitude restrictions the term "BLM-authorized land use activities" means those projects, operations or other actions that require a specific written authorization by the BLM. Dependent upon the nature of the activity, the specific language of the prescription may be modified.

Because of the environmental protection afforded these sites by the requirements and stipulations of applicable agreements and grants of rights-of-way, ACEC prescriptions will not pose additional permitting or stipulation requirements for the Trans-Alaska Pipeline System, the proposed Trans-Alaska Gas Transportation System, or the proposed Trans-Alaska Gas System.

The Proposed Plan and Alternatives Considered

Five alternatives were considered and analyzed in detail in the Draft RMP/EIS (August, 1987). The Proposed Plan is described in the Proposed Utility Corridor RMP/Final EIS (September, 1989). It and other alternatives considered are summarized as follows:

The Proposed Plan

This alternative emphasizes a balance of resource uses. The Proposed Plan outlines a program of intensive land management toward the development of the multiple use resource opportunities while providing for energy transportation.

Alternative A

This alternative is a continuation of current management practices. It is the "no action" alternative, as required by the CEQ regulations.

Alternative B

This alternative represents a program of environmental protection and enhancement. It reflects these goals by seeking to limit actions which could have negative effects on BLM-managed lands and on adjacent Conservation System Units. The actions proposed under this alternative also emphasize wilderness recommendations. This alternative, as required by

the CEQ regulations, is identified as the "environmental preferable alternative," however, it does not fully meet the decision criteria as noted in the "Management Considerations" section on page 6 of this document.

Alternative C

This alternative would provide economic development opportunities for the planning area. It opens as much public land as possible to the operation of the mining and mineral leasing laws. It also provides at least as many opportunities for development of recreational facilities as are found in the Proposed Plan.

Alternative D

Under this alternative, all PLOs withdrawing the Utility Corridor lands from State selection would be revoked. The BLM would not take any other major actions and would wait for an appropriate period of time for selections or exchanges in the area to take place. Once a stable pattern of federal land ownership has emerged, the BLM would begin a new land use plan to address existing public needs. Interim management would be identical to alternative A.

Mitigation

Measures necessary to avoid adverse impacts were built into the selected alternative wherever possible. These measures are presented in the form of (1) stipulations to be incorporated in future land use authorizations (e.g., leases or permits), (2) stipulations to govern project development, and (3) closures to protect key resources. In some cases, the need for site-specific review to aid in the development or refinement of mitigation measures has been identified. Also, some portions of the plan identify a need for monitoring of management actions to, in part, identify any additional mitigation measures that may be necessary. Finally, the environmental analysis that will be conducted for implementation actions may identify other practical means to avoid or reduce environmental impacts at specific locations.

Appendices K and L of the Proposed RMP contain a list of those mitigation measures of types (1) and (2) noted above. The effectiveness of these mitigation measures can be gauged by comparison of the detailed impacts listed in the main body of Chapter 4 of the EIS with the "unavoidable

The CDP regulation, as amended, is intended to be a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. Section 101 of the Act requires that the "management" of the CDP be based on a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

Alternative C

This alternative would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

Alternative D

This alternative would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

Mitigation

Mitigation measures are necessary to avoid adverse impacts which may be caused by the proposed project. These measures are presented in the form of (1) specific actions to be taken during the construction phase of the project, (2) specific actions to be taken during the operation phase of the project, and (3) specific actions to be taken during the decommissioning phase of the project. These measures are presented in the form of (1) specific actions to be taken during the construction phase of the project, (2) specific actions to be taken during the operation phase of the project, and (3) specific actions to be taken during the decommissioning phase of the project.

It should be noted that in the AEC-System, the "management" of the CDP is based on a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

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The Proposed Plan and Alternatives Considered

The proposed plan is based on a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

The Proposed Plan

The proposed plan represents a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

Alternative A

This alternative is a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

Alternative B

This alternative represents a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP. It would provide a "comprehensive and predictable alternative" to the "ad hoc" decision-making process currently in use in the "management" of the CDP.

adverse impacts" listed at the end of the chapter. These impacts are those remaining after application of the mitigation measures in these two appendices to the actions contained in the Proposed RMP.

All mitigation measures proposed for, and contained within, the Proposed Plan alternative, as modified, are hereby adopted. Given the criteria contained in the "Management Considerations" section of this Record of Decision, all practical means of avoiding or reducing environmental harm have been adopted.

ANILCA Section 810 Summary

The Proposed Plan will not cause a significant restriction to subsistence uses, resources, and needs in the Utility Corridor. There are potential limitations to subsistence users and resources under some of the development scenarios; however, approved mitigation measures addressing those limits will be implemented based on project-specific environmental and planning analyses.

There were 8 subsistence hearings held in conjunction with the Draft Utility Corridor RMP/EIS.

Management Considerations

The decision to choose the Proposed Plan, as modified by the results of the protest resolution process, is based on seven factors:

- 1.) effectiveness in resolution of the planning issues,
- 2.) conformance with the guidance established by the planning criteria,
- 3.) conformance with the legislative mandates of the ANILCA,
- 4.) avoidance of unnecessary impacts to the human environment,
- 5.) responsiveness to input received from public land users, other federal and State land management agencies, Native corporations, as well as State and local governments,
- 6.) the environmental analysis for the alternatives in the Proposed RMP/Final EIS, and
- 7.) management direction contained in PLO 5150. (The Assistant Secretary of the

Interior, on December 28, 1971 ordered that "subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws . . . and *reserved as a utility and transportation corridor . . . in aid of programs for the U.S. Government and the State of Alaska.*" [emphasis added.]

The selected RMP represents a balanced management strategy which achieves the multiple use mandates of the FLPMA, while fulfilling resource-specific requirements of legislation, such as the Threatened and Endangered Species Act, and the ANILCA, as well as the PLOs that affect the planning area.

Implementation and Monitoring

The Proposed RMP will provide the framework for making specific management decisions in the Utility Corridor planning area. However, the RMP/EIS will be continually monitored during this period to determine if (1) actions are consistent with current policy, (2) original assumptions and analyses were correct, (3) mitigation measures are effective and necessary, and (4) conditions or circumstances have changed significantly. Results of plan monitoring will guide plan maintenance as well as help detect the need for plan amendment or revision.

Priorities for implementation of management decisions are contingent upon program funding levels established through the budget process.

Public Involvement

As noted in the "Introduction" to this document, public involvement has been sought throughout the planning and decision making process. For a detailed documentation of public participation, please see Chapter 5 of the Proposed Utility Corridor RMP/Final EIS.

Additional opportunities for public involvement throughout the implementation of the RMP will exist. Public input will be sought during the preparation of future environmental documents for specific RMP implementation actions. Public comments will also be requested through Northern Advisory Council meetings, special purpose public

meetings or hearings, ANILCA Section 810 Subsistence hearings, as appropriate, as well as during any plan amendment that may, in the future, be required.

The BLM intends to pursue our concept of cooperative planning among various land owners and land management agencies of lands within this planning area. The Bureau wishes to cooperate with appropriate organizations in other land use planning activities for this area.

Consistency

The Proposed Utility Corridor RMP/Final EIS is consistent with the plans, programs, and policies of other federal agencies and of State and local governments.

Public Availability

For further information regarding the implementation of the Utility Corridor RMP, please contact the BLM's Arctic District Office at 1150 University Avenue, Fairbanks, Alaska 99709-3844. Review copies of the Proposed RMP/Final EIS are available at all Bureau offices in Alaska as well as local public libraries in Alaska.

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The EIA process is a key part of the project. It is a process that is used to assess the potential impacts of the project on the environment. The EIA process is a key part of the project. It is a process that is used to assess the potential impacts of the project on the environment.

Consistency

The proposed EIA is consistent with the plan, program, and policy of the federal government and of the state and local governments.

Public Availability

For further information regarding the implementation of the EIA, please contact the EIA Project Office at 1501 University Avenue, Fairbanks, Alaska 99775-5001. Review copies of the EIA report are available to the public in Alaska as well as to the public libraries in Alaska.



U.S. Department of the Interior
Bureau of Land Management

Alaska State Office

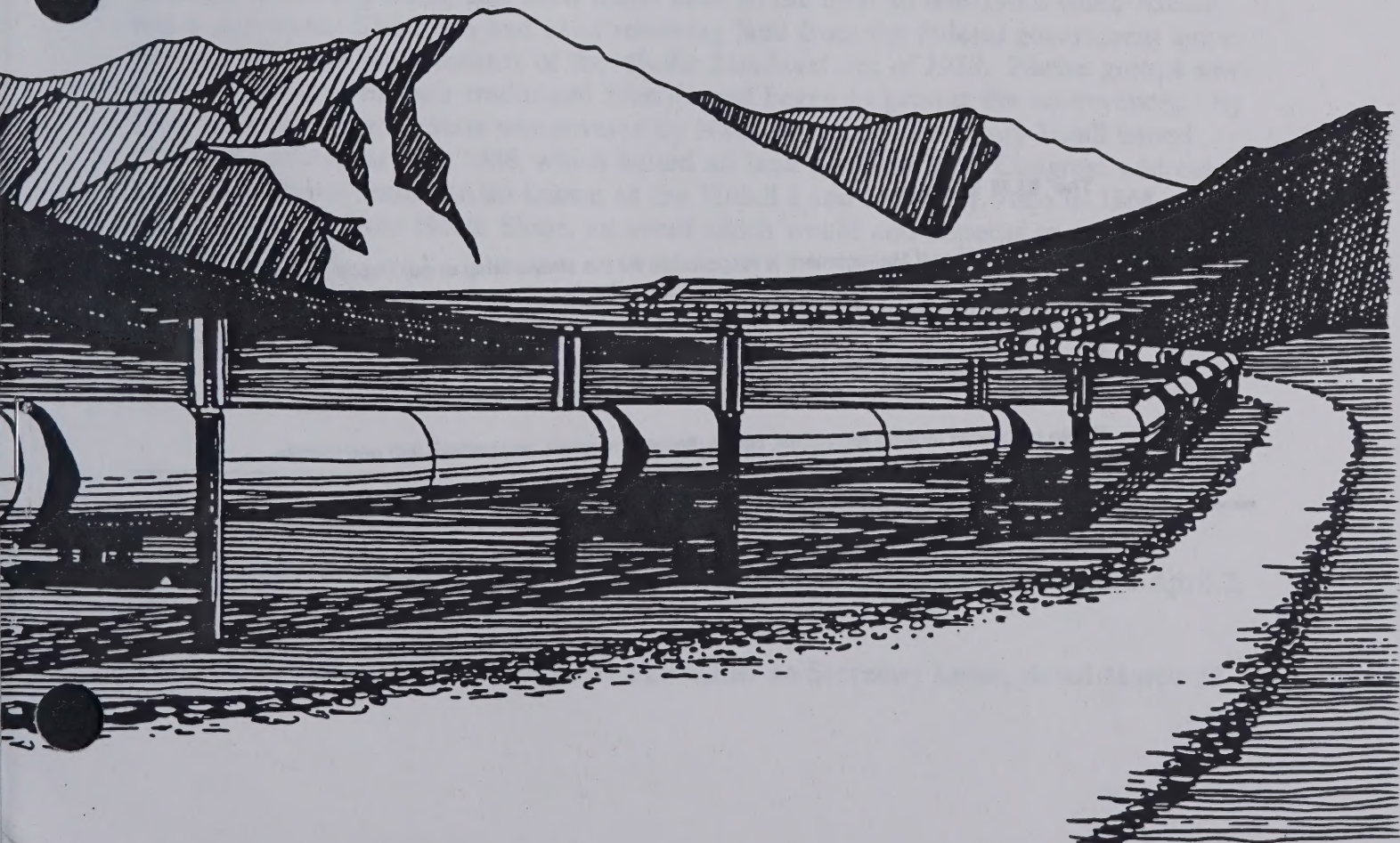
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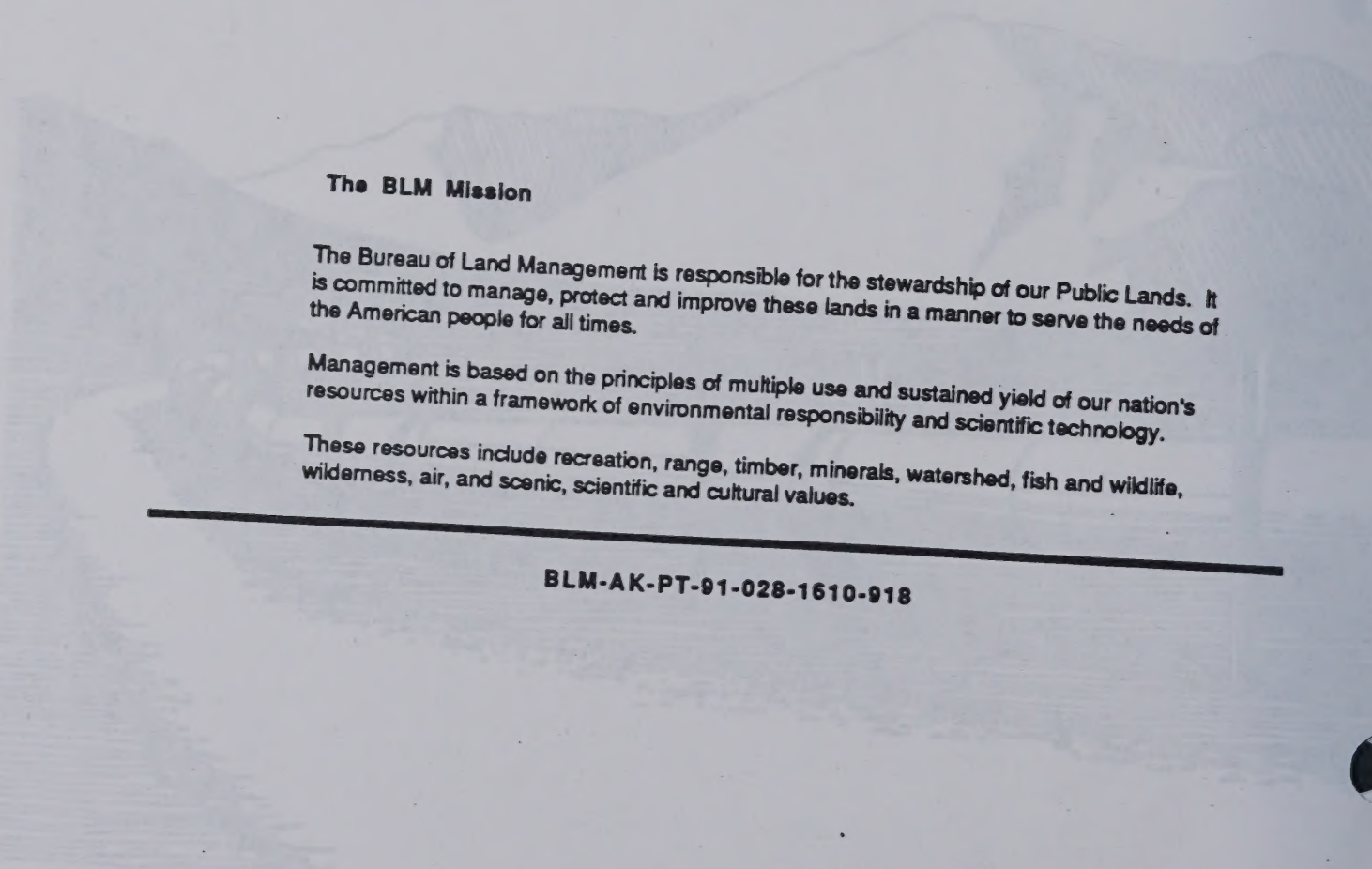


Utility Corridor

Resource Management Plan

History and Issues





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BLM-AK-PT-91-028-1610-918

Utility Corridor Resource Management Plan History and Issues

Introduction

Perhaps no BLM land use plan has caused more controversy than the Utility Corridor Resource Management Plan. In this *White Paper*, I will provide an historical review of the land, issues and events which have brought us to this point in time.

Since January 1991, the Wilderness Society¹, Governor Hickel², and two Congressmen³ have written to either the Director or Secretary to voice concern over the decisions contained in the ROD. The four central issues raised by these letters are:

- 1.) State land selections and conveyances within the Corridor.
- 2.) BLM's subsistence responsibilities under the *Alaska National Interest Lands Conservation Act*.
- 3.) BLM's responsibilities under the *Wild and Scenic Rivers Act of 1968*.
- 4.) The relationship between BLM and the Congress regarding wilderness designation under the *Wilderness Act of 1964* and the *Alaska National Interest Lands Conservation Act of 1980*.

Land Freeze, North Slope Oil and Native Claims

To begin at the beginning one must travel back to the mid- to late-1960s when Alaska was a new state. The State had been receiving land from the federal government since 1959 to fulfill the requirements of the *Alaska Statehood Act of 1958*. Native groups saw this as an erosion of their traditional lifestyle and began to protest the conveyances. By 1968, almost the entire state was covered by Native protests. Secretary Udall issued PLO 4582 on January 16, 1968, which halted all land transfers until Congress addressed the Native claims issue. (Also known as the "Udall Land Freeze.") Also in 1968, oil was discovered on the North Slope, an event which would add impetus to settling the land claims issue.

¹The Wilderness Society to Director Jamison, dated January 30, 1991.

²Governor Walter J. Hickel to Secretary Lujan, dated February 13, 1991 and April 2, 1991.

³Congressmen Bruce Vento and George Miller to Secretary Lujan, dated March 22, 1991.

The State, mindful of the economic importance of the find began to pressure the Department of the Interior to lift PLO 4582 in order to expedite the development of the oil field. By the summer of 1969, Congress agreed to lift the PLO to allow engineering and surveying of the haul road to the Slope.⁴

On January 1, 1970, the *National Environmental Policy Act* was signed into law requiring federal agencies to analyze the environmental impacts of proposed actions which they permit or authorize. On April 13, 1970, a federal court ruled that the haul road and associated pipeline project was subject the requirements of *NEPA*. In January 1971, DOI released its draft environmental impact statement on the pipeline project. At this point, DOI was being pressured by Native groups to forestall approval of the project until a fair and just settlement of their claims was enacted. Oil companies, as well as the State, realizing that there would be no pipeline approval from Congress until a Native claims act was passed, began lobbying Congress to approve a settlement.⁵

On December 17, 1971, Congress passed and President Nixon signed the *Alaska Native Claims Settlement Act (ANCSA)*. *ANCSA* extinguished both the Natives' aboriginal claims and PLO 4582.

Construction of the Trans-Alaska Pipeline

With the Native claims issue addressed in *ANCSA*, the State and oil interests felt that the last legal and political hurdles had been crossed. However, there were still many questions left unanswered by the Draft EIS and in January 1972 a federal appeals court ruled that DOI should revise the impact statement. DOI released another draft in March of that year.⁶

During this time the world situation began to affect the process. The EIS asserted that the nation could not wait much longer to produce Alaska oil because Arab oil producing states were flexing their political muscles in order to change American policy toward Israel. In 1973, the EIS was proved correct as these nations drastically reduced their supplies to the West and oil prices skyrocketed. Congress moved swiftly to pass the *Trans-Alaska Pipeline Authorization Act*. By early 1974, DOI began permitting what has been called the most massive private construction project ever undertaken: the Trans-Alaska Pipeline System (TAPS).

⁴Naske, Claus-M. and Herman E. Slotnick. 1979. *Alaska: A History of the 49th State*. p. 244.

⁵*ibid.* p. 247.

⁶*ibid.*, p. 251.

Lost during this period of political and international intrigue, and more relevant to this discussion, was the Secretary's withdrawal from State selection (and other forms of appropriation) of the entire Corridor under the authority of Section 17(d)(1) of *ANCSA*. The Corridor had been segregated by classification under the *Classification and Multiple Use Act* because of concern over potential mining claims. The classification was never finalized and the proposed classification expired on December 31, 1971. To maintain the segregation until the TAPS centerline was identified, the Corridor was withdrawn by PLO 5150 under the (d)(1) authority.⁷ The lands were segregated from mineral leasing, mining location, settlement, and both State and Native selection. PLO 5150 withdrew the land from State and Native selection by reserving it as a "utility and transportation corridor . . . in aid of programs for the United States and the State of Alaska."⁸

Throughout the remainder of the 1970s, the record does not reflect much pressure from the State to open the Corridor to selection.

Utility Corridor Management Framework Plan

BLM issued the Utility Corridor Management Framework Plan in 1979 which decided to retain all lands in federal ownership.⁹ The Haul Road, which had been built by the oil companies as part of the TAPS project under a right-of-way grant from BLM, was transferred to the State in 1978.

ANILCA and State Demands for More Land

Another watershed date was December 2, 1980, which saw the passage of the *Alaska National Interest Lands Conservation Act (ANILCA)*. *ANILCA* would impose new mandates and responsibilities on BLM which will be discussed in detail below.

⁷Utility Corridor White Paper attached to Director Memo to SD, August 5, 1982.

⁸PLO 5150 withdrew the lands in two strips. The 12 to 24 mile wide outer corridor was withdrawn from all forms of appropriation except mining, including State and Native selections, and mineral leasing. The 6 mile wide inner corridor was closed to all forms of appropriation including mineral entry and location.

⁹Bureau of Land Management. 1979. *Utility Corridor Management Framework Plan*. p. 6.

In January 1981, BLM-Alaska began considering State requests for land within the Corridor. One year later the record shows that the State formally requested that BLM open the entire Corridor to selection.¹⁰ In August the Deputy Director agreed that the State should receive portions of the Corridor.¹¹ The Director concurred with the Deputy's stated opinion that certain portions of the outer Corridor in the south, an area north of Toolik Lake, and in certain "development nodes" could be made available to the State through the land use planning amendment/environmental assessment process. Priority would be given to Corridor lands that were adjacent to existing State lands. All other outer and inner corridor lands under BLM management would be retained, although the outer corridor could be opened to mineral locations.

The 1983 Utility Corridor MFP Amendment

The State, despite BLM's tacit approval of future selection rights, continued to pressure the State Director to open all Corridor lands north of Washington Creek (a point south of the Yukon River) to the North Slope Borough boundary.¹² In 1983 BLM amended the MFP to allow State selections ("disposal of certain Utility Corridor lands to the State of Alaska to fulfill the *Alaska Statehood Act* will be in the National Interest" [my emphasis]).¹³ PLO 6533, issued in May 1984 opened a 500,000 acre tract south of the Yukon River to State selection.

Stevens Village Appeals to IBLA

At this point, the Stevens Village corporation (Dinyea) claimed that State ownership of its traditional hunting and fishing lands would destroy its subsistence way of life. Stevens Village first protested to the State Director, then after being dismissed by him, appealed the conveyance to IBLA.¹⁴ (IBLA, in 1986, upheld BLM's decision.)¹⁵

¹⁰John Katz, Commissioner, Alaska Department of Natural Resources to Dave Wickstrom, Area Manager - Yukon Resource Area, dated June 28, 1982.

¹¹Memorandum from Deputy Director to Director, dated August 2, 1982.

¹²Esther Wunnicke, Commissioner, Alaska Department of Natural Resources to Curt McVee, State Director, Alaska, dated March 29, 1983.

¹³Utility Corridor MFP Amendment, dated November 16, 1983.

¹⁴Appeal from Stevens Village (Dinyea Corporation) to Interior Board of Land Appeals, dated October 3, 1985.

¹⁵IBLA 84-707, decided January 8, 1986.

The Utility Corridor Resource Management Plan

Throughout 1985, the State continued its push to gain more land within the Corridor.¹⁶ BLM and the Department worked to accommodate the State.¹⁷ The Director noted that BLM could analyze the merits of State selection under a new land use plan. If it was in the national interest to dispose of any or all Corridor land, the planning process would be best way to find that out. This time the State disagreed.

The State maintained, as it still does, that land conveyances which fulfill the *Alaska Statehood Act* do not constitute a disposal action *per se* and therefore need not comply with *FLPMA* Section 102(a) which states that the public lands shall remain in federal ownership, "unless as a result of land use planning that disposal will serve the national interest." The Utility Corridor planning criteria reiterate this policy.¹⁸

Draft Resource Management Plan

The draft Utility Corridor RMP, issued August 1987, using the "disposal in the national interest" criterion, found that 33,000 acres of Corridor land was suitable for disposal to the State of Alaska. Draft RMP Alternatives C and D assessed impacts if more land was made available to the State. Native comments on the preferred alternative were supportive, but the State strongly opposed BLM on the State selection issue.

BLM-State Negotiations

During the months immediately after the release of the 1987 draft, the State met with BLM officials numerous times in an effort to alter BLM's preferred alternative. The record is silent on how these negotiations were conducted. The State "threatened" to select a prime piece of BLM land near the Denali Highway (also known as the Clearwater or Denali block) if BLM did not allow the State to select lands in the Corridor. BLM, knowing that State selection of vast tracts within the Corridor would not conform to the national interest criterion, was hesitant to agree. Before any accord could be reached the State proceeded to select the Denali block. The only way BLM saw to retain the Denali block was to allow State selections in the Corridor.

¹⁶Governor Sheffield to Secretary Hodel, dated February 26, 1985.

¹⁷Initiated by a policy statement request from the State Director to the Director on February 8, 1985, on the long-term national interest of the Utility Corridor, the Director issued his guidance on December 12, 1985.

¹⁸Utility Corridor Planning Criteria, dated May 28, 1987.

In April 1988 BLM released a three page Draft Utility Corridor RMP Supplement which drastically increased the amount of land the State would be able to select; from 33,000 to 1.1 million acres.¹⁹ These blocks included both inner and outer corridor lands. The given rationale was to consolidate federal and State land ownership in the state. In public meetings held after the supplement's release BLM officials described the rationale as part of a deal in order to consolidate federal and State land ownership patterns.²⁰ In protest letters received after release of the proposed RMP, some people interpreted this deal as an exchange agreement. BLM told the public that the federal government would be able to ensure that its State-selected holdings in the Denali block would be relinquished by the State. In return, BLM would give some Corridor lands to the State.²¹

In the intervening time between the supplement and the proposed RMP the amount of land to be made available to the State fluctuated greatly (from 1.1 million acres to approximately 732,000 acres, respectively). There is no written record of how management reduced the amount of land to be made available for State selection. Based on public comments taken at advisory council meetings, however, BLM reduced the size of the development nodes being made available for State selection. A memorandum from Assistant Secretary Steven Griles (signed by James Cason) concurred with the State Director's decision to allow some State selections. The memo does not specify which or how much land would be opened to selection.²²

Utility Corridor Proposed RMP and Protest Resolutions

The proposed RMP was signed by Acting State Director Rosenkrance on September 24, 1989, and released to the public on November 24, 1989. The plan proposed to lift PLO 5150 on several tracts of land in the Corridor: lands south of the Yukon River, the Coldfoot node and an area adjacent (Coldfoot Unit) which would allow a transportation corridor to State lands outside of the Corridor, another transportation corridor from Prospect (Prospect Unit) to lands to the west, a large block of land north of Toolik

¹⁹Utility Corridor Draft Resource Management Plan Supplement, April 11, 1988. The 1.1 million acres were largely divided between two tracts of land. The southern tract consisted of approximately 500,000 acres from south of the Yukon River to a point south of the Arctic Circle. The northern tract consisted of 600,000 acres of corridor land from Toolik Lake to Sagwon Bluffs.

²⁰Utility Corridor DRMP Supplement Public Meeting Transcript, May 18, 1988, p. 5.

²¹*ibid*, p. 5.

²²Memorandum from SD-Alaska through Director to Assistant Secretary - Land and Minerals Management, dated January 19, 1989.

Lake; and PLO 5182 covering a small area adjacent to the Arctic National Wildlife Refuge (Gas-Arctic). These tracts encompass approximately 732,000 acres.

In all 14 protest letters were received, of which, 12 were accepted for administrative review. Most of the protests dealt with State Selections and its impact on subsistence. In resolving the protests, the Director stated that most of the lands proposed for State selection met the national interest planning criterion. The Director found, however, that selection of lands in the Coldfoot unit, outside of the development node would not be in the national interest, and would not, therefore, be made available for selection by the State of Alaska. As for the Prospect unit, which consists of lands from the Dalton Highway to State land in the Ambler Mining District, the Director also found that it would not be in the national interest to make the lands available for State selection. Instead of allowing the State to select lands in these units, the Director instructed the State Director to entertain right-of-way applications to provide access to State lands outside of the corridor.²³

Utility Corridor Record of Decision

The ROD was signed January 11, 1991. The State has officially stated that BLM had promised that the Coldfoot and Prospect units would be made available for selection. Tom Hawkins of DNR was quoted to say that BLM had reneged on a "promise" to grant the State more land. Hawkins went on further to say that out of the 6 million acre planning area BLM would open only 630,000 acres to selection giving the impression that the State was expecting much more. However, the proposed plan had identified 732,000 acres for selection and the ROD removed only 74,000 acres from that proposal.

In his protest resolution letters, the Director pointed out that by removing the Coldfoot and Prospect units from the State Selection proposal impacts on subsistence would be properly addressed. The purpose for these tracts to be conveyed to the State was to provide access to its lands outside of the Corridor. The Director declared that access could be provided through the *FLPMA* right-of-way provisions, which might require subsistence hearings before any rights-of-way could be granted.

Subsistence and State Selections

Perhaps no issue surrounding the Utility Corridor has been more controversial than subsistence. Certainly the issue has become more complicated in 1989 when the Alaska Supreme Court ruled that the State's subsistence preference was unconstitutional. The State maintains that its land and resource management is just as sound and just as bound by law protecting subsistence resources as is the federal government. Moreover,

²³Director to Cathy Inman, Alaska Center for the Environment, December 1990.

both the State and BLM agree that *ANILCA* should not impair land selections and conveyances.²⁴

Other Issues Regarding the Utility Corridor RMP

BLM's interim management policy for lands under wilderness review, issued in 1979, states that during the time an area is under wilderness review and until Congress makes its final decision, the lands must be managed to protect wilderness values.²⁵ BLM cited this policy throughout the Utility Corridor planning process regarding management of the Central Arctic Management Area (CAMA).²⁶ That is, until Congress acts on our findings and recommendations, BLM said that it would not implement other resource decisions which might damage the values for which the land was set aside as a wilderness study area. However, prior to the signing of the ROD, the Regional Solicitor issued an opinion which offered a different interpretation of *ANILCA*.

The Solicitor's opinion, issued February 21, 1991, found that Sections 1001 and 1004 of *ANILCA* do not require application of BLM interim wilderness management procedures for the entire study area. Furthermore, BLM can continue to make land within the study area available to selection and conveyance to the State of Alaska. Those who

²⁴At issue is Title VIII of *ANILCA*, which states:

In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands shall evaluate the effect of such use . . . on subsistence uses and needs. (Section 810(a))

However, Section 810(c) states:

Nothing herein shall be construed to prohibit or impair the ability of the State . . . to make land selections and receive land conveyances pursuant to the Alaska Statehood Act.

IBLA cited these sections of the law to uphold BLM in its dismissal of the Stevens Village appeal on State Selections in the Corridor pursuant to the 1983 Utility Corridor MFP amendment.

²⁵Bureau of Land Management, Interim Management Policy and Guidelines for Lands Under Wilderness Review. December 12, 1979. p. 5.

²⁶Utility Corridor Proposed RMP, September 24, 1989.

have taken issue with the CAMA interim wilderness management decision can be directed to this opinion to better understand the reasoning behind this interpretation.²⁷

Environmental groups commenting on the ROD have taken issue with the decisions regarding interim management of the CAMA wilderness study area and the *Wild and Scenic Rivers Act*. Furthermore, environmental groups charge that the proposed action allowing State selection had not been addressed according to the requirements of *NEPA* in either draft supplement or the Final EIS.

Congressmen Vento and Miller, in a letter to the Secretary, stated that Congress alone has the authority to release lands under wilderness study.²⁸ (The ROD stated that all CAMA land recommended as unsuitable for wilderness designation would be managed according the multiple-use prescriptions of the plan.) The CAMA wilderness findings and recommendations report (as required by *ANILCA Sections 1001 and 1004*) was signed by the SD in December 1988.

With respect to the wild and scenic rivers issue, the Director issued a policy that no further wild and scenic river studies would be conducted by BLM in Alaska at this time.²⁹ The primary reasoning being that *ANILCA* (Sec. 1326(b)) had extinguished "single purpose" studies which consider establishment of conservation system units unless specifically authorized by Congress. A collateral reason given by the Director included the uncertainty surrounding navigability of many rivers and the subsequent issue of possible State jurisdiction over such waterways.

Mining in Areas of Critical Environmental Concern

Congressmen Vento and Miller aver that the plan fails to protect the 13 designated ACECs from mining.³⁰ BLM has acted within its discretion to both designate the ACECs and to allow mining within them. BLM's surface management and ACEC regulations allow surface disturbing activities within ACECs if BLM takes the necessary precautions to prevent undue and unnecessary degradation to the environment. The

²⁷Memorandum from Alaska Regional Solicitor to SD-Alaska, dated February 21, 1991.

²⁸Congressmen Bruce Vento and George Miller, dated March 22, 1991.

²⁹Director to SD- Alaska. *Wild and Scenic River Policy for Alaska*. Instruction Memorandum No. 91-127, December 14, 1990.

³⁰Vento and Miller letter, dated March 22, 1991.

subject ACECs were designated for a myriad of reasons and that the values for which they were designated can be protected within existing law. The ACEC provision in FLPMA does not provide for *de facto* wilderness, which is what the result would be by segregating ACECs from mining.

Utility Corridor Chronology

Prior to 1968	Native groups protest State Selections (SS) and conveyances with DOI.
1/16/68	ARCO announces oil discovery at Prudhoe Bay.
1/16/69	PLO 4582 withdraws 262 million acres for protection of Native lands ("Udall Land Freeze").
1/1/70	<i>National Environmental Policy Act</i> enacted.
12/17/71	President Nixon signs <i>Alaska Native Claims Settlement Act</i> .
12/28/71	PLO 5150 issued withdrawing Utility Corridor for "transportation of energy and materials."
11/16/73	Nixon signs <i>Trans-Alaska Pipeline System (TAPS) Authorization Act</i> .
1/23/74	DOI issues primary ROW permit to begin construction of TAPS.
6/20/77	First oil pumped through TAPS.
9/24/79	Utility Corridor (UC) MFP issued ("retain all lands in federal ownership").
12/2/80	<i>Alaska National Interest Lands Conservation Act</i> signed.
1/8/81	BLM Corridor Management Criteria.
6/28/82	State requests BLM open entire Corridor to SS.
8/2/82	Deputy Director to Director re: SS w/in UC.
3/15/83	Alaska Department of Natural Resources (DNR) to State Director re: opening UC to SS from Yukon River to North Slope Borough boundary.
11/8/83	UC MFP Amendment ("disposal of certain [UC] lands to the State of Alaska to fulfill Alaska Statehood Act will be in the national interest).
5/11/84	BLM publishes PLO 6533 opening certain UC land to SS.
5/24/84	Dinyea (Stevens Village) protests conveyance to State (dismissed by SD).
6/12/84	DNR to SD re: SS from Yukon River to North Slope Borough (NSB) boundary.
9/18/84	DNR to SD re: SS south of Yukon River.
2/8/85	SD to Director Memo re: UC Draft Statement of Long-Term National Interest of lands between Yukon River and NSB bdy (Exchange vs. Disposal)
2/26/85	Governor to Secretary reiterates State's desire to select lands w/in UC between Yukon River and NSB bdy.
9/11/85	Director through Assistant Secretary, Land and Minerals Management to Secretary re: UC Management
10/3/85	Director's Draft Guidance "Proposed Policy Statement" on definition of disposal criteria [eg, disposal in the national interest].
10/3/85	Dinyea appeals State land conveyance to IBLA.
12/12/85	Director's Guidance [same as 10/3/85].
1/8/86	Dinyea appeal dismissed by IBLA.
3/28/86	UCRMP Issues and Criteria Workshop Summary.

8/18/87 Draft UCRMP (33,000 acres identified for SS) and CAMA
 Wilderness DEIS and Recommendations released.
 4/11/88 UC DRMP Supplement released (1.1 million acres SS).
 5/8/88 UC DRMP Supplement Addendum released.
 5/18/88 Draft RMP Supplement Public Meeting in Fairbanks.
 6/1/88 Northern Advisory Council Meeting.
 10/28/88 Governor Cowper to Secretary Hodel re: SS within UC.
 1/19/89 SD to Director to AS-LMM re: UCRMP proposed decisions.
 11/24/89 UCRMP/FEIS released to public [signed 9/27/89].
 late 1989 14 protests received (12 accepted for administrative review).
 December 1989 Protests resolved.
 1/11/91 UC Record of Decision signed.
 1/30/91 Wilderness Society to Director re: CAMA decision
 2/13/91 Governor Hickel to Secretary Lujan re: Elimination of SS proposals
 at Prospect and Coldfoot units.
 2/21/91 Solicitor Opinion re: CAMA Interim Management.
 3/22/91 Congressmen Vento and Miller letter to Secretary re: SS/CAMA
 Interim Management/Wild and Scenic Rivers/Mining within
 ACECs.
 4/2/91 Governor Hickel to Secretary Lujan re: SS in Corridor.
 4/9/91 Secretary to Governor: remand to BLM Director on State
 Selections.

